

TO: Board of Environmental Protection

FROM: Andrea Lani, Bureau of Air Quality

DATE: April 16, 2008

RE: Proposed Rule: Chapter 158 CO2 Budget Trading Program Auction Provisions

Statutory and Regulatory Reference:

A. Statutory authority.

38 MRSA Section 585-A provides that the Board of Environmental Protection “may establish and amend regulations to implement ambient air quality standards and emission standards. These regulations shall be designed to achieve and maintain ambient air quality standards and emission standards within any region and prevent air pollution.”

B. Specific legal mandates requiring adoption.

38 MRSA §580-B, sub-§4 directs the Department to adopt rules to implement the carbon dioxide cap-and-trade program, including “[p]rovisions for the establishment of a system for the ...sale...of carbon dioxide emissions allowances...” and “[p]rovisions to manage the carbon dioxide allowance auction developed in coordination with other states and jurisdictions in the regional greenhouse gas initiative...”

Location/Applicability:

The proposed rule will apply in all areas of the state.

Description:

In 2003, the Maine State Legislature charged the Department of Environmental Protection (DEP) with developing a climate change action plan with the goal of reducing greenhouse gas (GHG) emissions from in-state sources. DEP initiated a stakeholder process, seeking input and building consensus on how best to meet the required emissions reductions, and submitted a Climate Action Plan for Maine 2004 to the Legislature in December 2004. A regional cap-and-trade program was one of the many options for reducing greenhouse gas emissions recommended by the Plan. In December 2005, Governor Baldacci joined the governors of seven other New England and Mid-Atlantic states in signing the Regional Greenhouse Gas Initiative (RGGI) memorandum of understanding. The MOU commits the states to stabilizing regional greenhouse gas emissions through the establishment of a cap-and-trade program. Over the fall and winter of 2006, the Department held open forums at four locations throughout the state to give the public and regulated community an opportunity to learn about RGGI and provide input. In the spring of 2007, the Maine Legislature passed LD 1851, An Act to Establish the Regional Greenhouse Gas

Initiative Act of 2007, directing the Department to write regulations to implement the program. In December 2007, the Board of Environmental Protection adopted Chapter 156, CO2 Budget Trading Program, which laid the groundwork for the carbon dioxide cap-and-trade program.

This rulemaking will establish provisions for conducting CO2 allowance auctions. These provisions define how the Department will implement and administer auctions, including auction format and frequency, reserve price, handling of unsold allowances, and notification of potential bidders. The rule lays out criteria potential bidders must meet in order to participate in auctions and the process for submitting bids and transfer of allowances. Finally, the rule includes a process for registering allowances, including those purchased on the secondary market as well as those sold at auction.

Environmental Issues:

Global climate change resulting from human activity, namely the burning of fossil fuels which increase the concentration of carbon dioxide in the atmosphere, poses a direct and immediate as well as long-term threat to public health, safety and welfare. Increasing global temperatures are predicted to lead to, among other things, increased frequency and severity of droughts, storms and floods; melting of glaciers, ice sheets and the polar sea-ice, raising sea levels to cover shoreline and low-lying land; increase in infectious diseases; changes in distribution and abundance of native tree, plant and animal species; disruption of forestry, agriculture and recreational industries. Chapter 158 supports Chapter 156 which is intended to reduce emissions of carbon dioxide from large power producers in the state through the establishment of a cap-and-trade program which will operate on a regional scale.

Departmental Recommendation:

The Department recommends that the Board post Chapter 158, CO2 Budget Trading Program Auction Provisions, as proposed to a public hearing on June 5, 2008.

Estimated Time of Presentation:

1 hour.